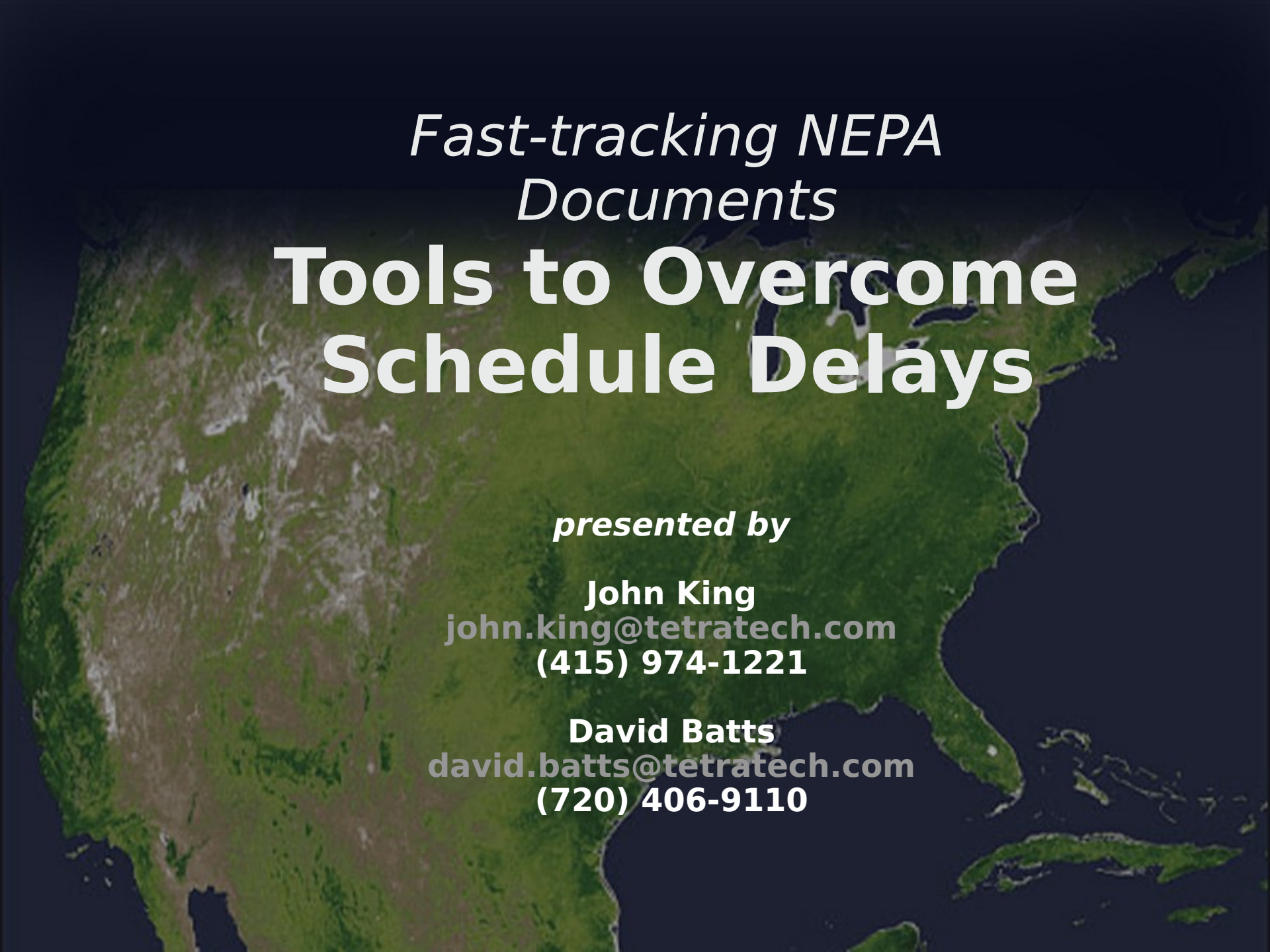

*Fast-tracking NEPA Documents*

# Tools to Overcome Schedule Delays

***presented by***

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# Review of 2003 Survey

***2003 Survey focused on answering:***

1. **Does the NEPA process itself slow decision-making and delay a project?** ***or***

   **Is there a natural decision-making process that is responsible for project delays?**

2. **Are there ways to speed up NEPA documents?**

**Surveyed ~120 DoD staff and ~475 DOI and USDA FS staff**

# Review of 2003 Survey

## Experience Level: DoD (DOI / FS)

**14 % (10%) <3 years**
**29 % (22%) 3-10 years**
**57 % (67%) > 10 years**

## Respondent's Role: DoD (DOI / FS)

**46 % (31%) NEPA project manager**
**12 % (18%) NEPA resource author**
**27% (27%) Agency NEPA officer or Agency reviewer**
**15 % (24%) Non NEPA professional (e.g. project engineer)**

**What percent of your projects were delayed?"**

**43% (range from 42% BLM - 67% FS)**

**Why?**

- **Decision-makers changed project**
- **Project was challenged in court**
- **Poor document; needed to be re-done**
- **Alternatives changed or added**
- **ESA**

**Considering anything you deem relevant, *which of the following is more likely to account for a delay in a project?* DoD (DOI/FS)**

**14% (32%) NEPA process**

**84% (68%) Factors outside of the NEPA process**

# Does NEPA lead to better projects?

***Responders felt that NEPA leads to a better project because***

- **we better define the project description and any alternatives early in the process.**
- **NEPA facilitates internal discussion and analysis that might otherwise not happen**

***Respondent's also felt that:***

**Internal reviewers sometimes wait to comment until later in the process.**

**NEPA improves agency decision-making**

**They do early internal scoping with our interdisciplinary members to identify possible issues and problems**

**NEPA documents are too long**

# *"Without changing NEPA, the following suggestions would lead to adequate NEPA documents that are produced more quickly:"*

**Over 225 comments**

**Internal DoD issues**

- **Internal Coordination 13%**
- **Length 12%**
- **Planning, start earlier; integrate 11%**
- **Review, internal 10%**
- **Training 5%**
- **Alternatives 4%**
- **Legal Sufficiency 4%**
- **CatEx 3%**
- **Contracting 2%**
- **Funding 2%**
- **Programmatic 2%**

**External to DoD**

- **Consultation (USFWS, SHPO) 13%**
- **Public 6%**
- **Review by agency (not consultation) 4%**

- **Received one comment on need for DoD exemptions**

<1%

- Air
- Automate process
- Cumulative
- Guidances
- Format
- GIS
- Impact analysis
- Mitigation
- Permits
- Personnel turnover
- Process (fill in the blank EA)
- Regulatory (DoD exemptions)
- Web

# Ways to fast-track projects

**Early on**

1. **Better and earlier internal planning**
2. **Earlier coordination with outside agencies**

**Throughout the process**

3. **Shorter on-topic documents**
4. **Begin analysis at the appropriate time**
5. **Reviewers should comment earlier, and should focus on critical issues**
6. **Be willing to accept some risk**

# 2004 Survey Tools to Overcome Schedule Delays

**Focused on top four areas identified from last year**

1. Alternatives
2. Decision-maker changed mind
3. Litigation
4. Poor document

**This delayed a project I worked on:**

| | Non DoD | DoD | Consultants |
|---|---|---|---|
| Alternatives | 80% | 82% | 96% |
| Decision-maker changed mind | 64% | 75% | 76% |
| Litigation | 27% | 40% | 39% |
| Poor document | 58% | 62% | 26% |

# 2004 Survey (continued)

**Survey target: those experienced or impacted by the NEPA process (1500 e-mails with link to survey)**

**Those surveyed responded by completing an on-line survey (www.nepasurvey.com)**

**27 questions**

- **5 informational (demographics)**
- **4 ranking**
- **4 yes / no**
- **3 Multiple choice ( more than one answer allowed)**
- **3 Multiple choice (one answer allowed)**
- **3 Agree / disagree**
- **5 Open-ended *(“provide up to three suggestions…”)***

***~ 165 respondents over ten days***

# Response and Analysis

- Surveys initially sent to 1500
  - Expected response rate: 1-3%
  - Actual raw response rate: 5-10%
- Survey Bias
  - Those surveyed were not randomly selected
  - Response was voluntary (responders self-selected whether to respond)
  - Survey should be regarded as qualitative

# Characteristics of those who Responded

## Employer

76 % Federal Government

6 % State/Local Government

15% Consultant

## Role

45 % NEPA project manager

8 % NEPA resource author

33% Agency NEPA officer or Agency reviewer

14 % Non NEPA professional (e.g. project engineer)

# Characteristics of those who Responded

**Federal Agencies**

**31% Department of Defense**

**50% Department of Interior**

**19% Other Federal including DOE, DHS, NOAA / NMFS, USDA**

**Experience Level (all)**

- **12 % <3 years**
- **35 % 3-10 years**
- **53 % > 10 years**

# Decision-maker

***On projects I've been involved with a decision-maker changed their mind and this delayed the project:*** **64%** **(DoD: 75%; Consult: 76%)**

***Rankings of tools to keep on schedule:***

1. ***Timely*****:** **reviews and approves draft documents and decisions in a timely manner**
2. ***Hands on*****:** **aware and takes part in decisions throughout the project**
3. ***Knowledgeable*** **about NEPA**

***Other choices available:***

**"briefed regularly" "decisive" "the same" "organized"**

# Alternatives

- **Alternative changed, added or deleted after the project was underway and this delayed the project:**
  **80%  (DoD: 82%; Consultants:  96%)**
- **How will the following affect the schedule?**

| | 1 Always delays | 2 Usually | 3 Sometimes | 4 Usually does not | 5 Never | Avg. (all) | Avg. (DoD) |
|---|---|---|---|---|---|---|---|
| Add | 33% | 48% | 15% | 4% | 0% | 1.91 | 2.06 |
| Change / Revise | 17% | 38% | 42% | 3% | 0% | 2.31 | 2.44 |
| Delete | 2% | 9% | 35% | 50% | 3% | 3.43 | 3.53 |

# Alternatives (continued)

**Does adding an alternative after a project is underway result in a project delay?**

| | All | DoD | Consult |
|---|---|---|---|
| Yes, a great delay (<30%) | 21% | 13% | 38% |
| Yes, moderate delay (15-30%) | 53% | 60% | 54% |
| Yes, a small delay (0-15%) | 22% | 22% | 8% |
| No | 4% | 6% | 0% |

# Alternatives (continued)
# Tools to Overcome Delays

**Prepares should (ranking)**

1. **Establish adequate range – bracket…**
2. **Circulate and get approval prior…**
3. **Educate proponents & team on consequences of delay**

**Other choices:**

4. Get cooperating & reviewing agency approval of alternatives
5. Wait for supplemental reports
6. Buy off and approval from attorneys prior

# Litigation

**Delays attributable to litigation (includes appeals):**
**27% (DoD: 40%; Consultants: 39%))**

| | All | DoD | Consult |
|---|---|---|---|
| Alternatives: Failure to consider some | 32% | 19% | 50% |
| Scientific uncertainty / controversy | 29% | 10% | 29% |
| na | 27% | 29% | 21% |
| Impact analysis unsupported | 27% | 19% | 21% |
| ESA | 26% | 33% | 21% |
| Cumulative impact | 25% | 14% | 35% |
| Violated NEPA procedures | 24% | 19% | 7% |
| Other | 18% | 10% | 14% |
| Segmentation | 15% | 5% | 14% |
| Faulty technical analysis | 12% | 5% | 7% |
| Cultural resources | 10% | 14% | 7% |
| Poort / wrong P&N | 8% | 10% | 7% |
| Poort / wrong project description | 6% | 10% | 0% |
| Air quality / conformity | 5% | 14% | 0% |

# Litigation (continued)

**Win or Lose?** **All (DoD)**

- **Lost or lost most: 21% (13%)**
- **Won or won most: 47% (60%)**

**Tools to overcome delays (litigation-related)**

1. **Meet early on with stakeholders / opponents**
2. **Attorney review draft documents**
3. **Bulletproof documents**

**Other choices:**

- "choose env preferred" "compromise with opponents" "legislative relief"

# Poor Documents

**Delayed due to poor document being produced? 58% (DoD: 61%; Consultants: 24%)**

**Major reasons:**

| | All | DoD |
|---|---|---|
| Poorly organized document | 39% | 50% |
| Did not collect and analyze all relevant information | 49% | 46% |
| Faulty technical analysis | 42% | 36% |
| Grammar, punctuation, spelling | 21% | 36% |
| Project description was incorrectly characterized | 34% | 27% |
| Failed to correclty coordinate Section 106 | 17% | 27% |
| Other | 30% | 23% |
| Failed to correctly coordinate ESA or Section 7 | 26% | 23% |
| Authors wrote incorrect P&N | 25% | 18% |

# Poor Document (continued)

**Tools to overcome delays due to Poor document:**

1. **Allow adequate time for preparation**
2. **Provide more / better training for authors**
3. **Ensure reviewers submit comments on-time**

**Other choices:**

4. **QA**
5. **have technical editor review (#7 for DoD)**
6. **standard reviewers**
7. **earlier review by HQ & attorneys ** (#4 for DoD, tie with QA)**
8. **adequate # of internal drafts**

# Additional results

**DoD should receive exemptions to NEPA?**

**Agree: 12% (DoD: 24%; Consultants 0%)**

**Homeland security issue have caused delays in some of my NEPA projects:**

**Agree: 15% (DoD: 20%; Consultants 14%)**

**NEPA process adds value to a project:**

**Agree: 97% (DoD: 96%; Consultants: 100%)**

# Key Tools to Overcome Delays

**Poor document:**

- Allow adequate time for preparation
- Provide more / better training for authors
- Ensure reviewers submit comments on-time

**Decision-maker**

- Timely reviews and approvals
- Hands on
- Knowledgeable

**Alternatives**

- Establish range of alternatives – bracket
- Circulate and get approval of alternatives
- Educate proponents & team on consequences of delay

**Tools to overcome delays (litigation-related)**

- Meet early on with

# Some final thoughts

- **Tools / Strategies available that will keep projects on schedule**
- **Little difference between DoD respondents and other federal staff**
- **Most respondents felt that NEPA adds value to a project**
- **If you plan and start NEPA earlier it is likely to**
  - **Bring greater value to a project,**
  - **Shorten the process and**
  - **May cost you less**

## *For further questions:*

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# Decision-maker (continued)

**"Much of the decision-maker delay could be attributable to":**

- **Timeliness: did not review and approve documents & decisions in a timely manner (39%)**
- **Decision-maker changed (33%)**
- **Was not knowledgeable about NEPA (30%)**
- **Indecisive (26%)**
- **Largely unaware of project until critical juncture (24%)**
- **Reversed previous decision (19%)**
- **Other (18%)**
- **NA (13%)**
- **Disorganized (4%)**